

U.S. PATENT APPLICATION NO. 10/664,891
Attorney Docket No. 1061/6REMARKS

This communication responds to the Office Action mailed May 2, 2007, the period in which to respond having been extended to November 2, 2007. Claims 1-54 were originally filed. Claims 8-27 and 35-54 have been withdrawn in response to a restriction requirement without prejudice to or disclaimer of the subject matter contained therein. Therefore, claims 1-7 and 28-34 remain pending.

CLAIMS 1-2 AND 7 ARE PATENTABLE OVER SANDERS

The Examiner rejected claims 1-2 and 7 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent Application Publication No. 2001/0042036 by Sanders [hereinafter "Sanders"]. Essentially, the Examiner contends that Sanders discloses all of the elements of the claims at issue. The Applicant respectfully disagrees with the Examiner's characterization of this reference vis-à-vis the claims at issue.

Sanders fails to disclose using a purchase on margin to modify the riskiness characteristic of a portfolio of assets, rights or liabilities. None of the citations to Sanders provided in the office action include this teaching absent in Sanders. In fact, nowhere else in Sanders can this missing teaching be found. Sanders simply discloses a security that contains leverage in it in terms of how it pays out. It is in essence a security with an embedded option in it – you pay for the option and the underlying strike price upfront (e.g., \$100 in the example in Sanders), you then receive a contracted for return if the underlying goes up (like a call option) and lose some or all of your premium payment and the strike price you already paid for if the security goes down. Sanders is wholly unrelated to the claimed invention, which includes using a purchase on margin to match a riskiness characteristic of a portfolio of assets, rights or liabilities selected by a user.

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For example, the Examiner cites FIG 1, from "at least 'select items' through at least 'best price offer' in at least CybicBulls/Bears embodiment, which is reproduced below for ease of the reader:

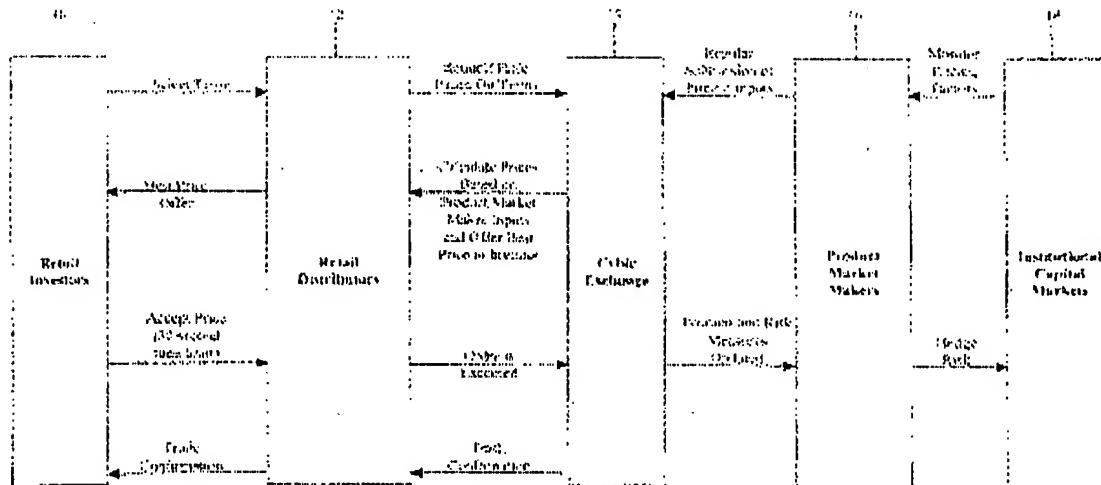


FIG. 1

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The Examiner further cites other portions of FIG 1 and paragraphs 53-55, which are reproduced below as well.

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[0053] The CybicBull/Bear 24 product for an embodiment of the present invention allows the Retail Investor 10 to increase the potential gain or loss of an investment by a multiple of the Retail Investor's choosing. The Retail Inves-

tor 10 chooses an underlying equity or index, the number of investment units (e.g., \$100 each), a maturity, and a leverage factor (Return Multiplier). The Retail Investor 10 is then quoted a Return Cap, which represents the maximum potential investor gain. For a CybicBull 24, at maturity the Retail Investor 10 is paid the initial investment compounded by the percent increase or decrease on the underlying equity or index (from the time of purchase) times the Return Multiplier. The Retail Investor 10 can lose no more than the initial investment, and may Early Redeem the CybicBull 24 at any time for an interim price competitively quoted by the Product Market Makers 16. CybicBears 24 work in the opposite direction of CybicBulls 24, leveraging positive returns when the market is declining and leveraging losses when the market is going up.

[0054] As an example of a CybicBull 24, assume that on Feb. 14, 2000, the Retail Investor 10 purchases a single unit (\$100) of a six-month IBM CybicBull 24 and chooses a Return Multiplier of ten. The Return Cap is quoted at eighty percent, and IBM is selling for \$120 per share at the time of purchase. If IBM closes at \$126 (a five percent increase) on Aug. 14, 2000, the Retail Investor 10 receives a return of ten (Return Multiplier) times five percent (increase in underlying price) or a fifty percent return on the initial investment of \$100, for a total of \$150. If IBM closes at \$144 (a twenty percent increase) on Aug. 14, 2000, the preliminary return calculation produces ten (Return Multiplier) times twenty percent (increase in underlying price) or a two hundred percent return on the initial investment. This is greater than the Return Cap of eighty percent, and therefore the Retail Investor 10 is paid the eighty percent Return Cap on the initial investment of \$100, for a total of \$180. If IBM closes at \$120 on Aug. 14, 2000, the Retail Investor 10 receives the initial investment of \$100.

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[0055] In the foregoing CyberBull 24 example, if IBM closes at \$114 (a five percent decrease) on Aug. 14, 2000, the Retail Investor 10 loses ten (Return Multiplier) times 5 percent (decrease in underlying price) or fifty percent from the initial investment of \$100, for a total return of \$50. If IBM closes at \$96 (a twenty percent decrease) on Aug. 14, 2000, the preliminary return calculation produces ten (Return Multiplier) times twenty percent (decrease in underlying price) or 200 percent. However, the Retail Investor 10 can never lose more than the initial so only \$100 is lost. FIG. 5 is a table which shows an example of a comparison of benefits of CyberBulls/Bears 24 for an embodiment of the present invention to standard put and call options.

In all of the citations provided by the Examiner, the Applicant is unable to find the concept of determining an amount of a desired portfolio (not an individual security) that must be purchased on margin to match a user specified riskiness characteristic, as recited in all of the independent claims. Sanders fails to disclose even doing so for an individual security, as Sanders does not disclose margin purchases that are used to modify the riskiness characteristic of an asset to match a user specified riskiness characteristic. Simply put, Sanders does not disclose margin purchases at all.

More specifically, claim 1 recites "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*", which is not found in Sanders. In contrast to the present invention, Sanders employs a method in which one can purchase units of an investment contract (*i.e.*, a single asset, right or liability, but not an entire portfolio of such assets, rights or liabilities) that has certain leverage, but can never lose more than his initial investment. See paragraph 55, lines 9-10 (highlighted above). If the investor can never lose more than his initial investment, the purchase is not being accomplished using margin. A margin purchase is a purchase based on a loan to the investor from the brokerage. By doing so, the investor can purchase more stock than possible with his own funds. However, if the stock price drops, the investor is subject to a

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margin call, and must place additional funds in the account to repay the "loan." In this manner, the investor can lose more than his initial investment. Therefore, Sanders fails to teach "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic.*"

In fact, Sanders teaches away from this by providing a method in which one can never lose more than his initial investment. By providing a method in which one can never lose more than his initial investment, but gain leverage similar to leverage gained from margin investing, Sanders teaches that margin investing is less desirable and thus teaches away from doing so. Therefore, Sanders fails to anticipate or render obvious the claims at issue. The Applicant therefore respectfully requests reconsideration and withdrawal of the rejection of claims 1-2 and 7.

CLAIMS 3 AND 6**ARE PATENTABLE OVER SANDERS AND HORNER ET AL.**

The Examiner rejected claims 3 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of U.S. Patent Application Publication No. 2003/0009409 by Horner et al. [hereinafter "Horner et al."]. The Examiner contends that Sanders fails to disclose interacting with a graphical user interface, but cites Horner et al. for this teaching. The Applicant agrees with the Examiner that Sanders fails to disclose this teaching, but disagrees that Sanders discloses the remaining elements of the claims at issue.

As discussed above, Sanders fails to teach "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claim

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1. An additional citation provided by the Examiner under this rejection is to FIG 5, which is reproduced below with the cited material highlighted:

	CyberBull and CyberBear	Standard Call or Put Option
Weighted Price of Portfolio	If the value of the equity or index price goes up, it has not changed at all, and the user can purchase more shares for the same amount.	The option buyer expects to gain a profit if the market price goes up above the strike price in order to be able to sell his call option.
Portfolio Hedging Strategy	Call option strategy is used here according to Justice et al. with no impact on the value of portfolio assets.	Hedging strategy of strike price and stock will be used to sell options. Customer may choose one of perpetuity and a premission. Strike prices close to the current market price are more preferable.
Ability	Customer can buy stocks and sell them for a chance to make higher return than that of investments.	Hedge, long investment, can be made by shorting and/or establishing other positions.
Ability to Select Leverage	Customer can select Leverage factor from 1 to 20.	Can accept that enough combination of instruments, leverage, compliance.
Computation	From established test, the system uses cash as input to determine how much money is to be invested unless the investment process is reached. The cash is then used to determine the amount to be deposited in the account holding the selected market (stocks) and are fully allocated to the stocks.	Test calculation set up between transaction and investment.
Security Policy	All of the details of price of portfolio in the CyberBull System.	No specific information provided about security which may be considered.
Price Quotes	Quotes are sent to a computer for a given price of stocks, and the best bid/ask for a standard market makes bids.	Customer can download all orders and obtain the information of price.

FIG. 5

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The citation above does not disclose determining an amount of a portfolio that must be purchased on margin to match a user specified riskiness characteristic. No reference to a margin purchase and its relationship to the riskiness characteristic can be found in this citation or anywhere else in Sanders.

Moreover, Horner et al. also fails to teach or suggest this teaching missing from Sanders. The Examiner cites FIGs 4-7 of Horner et al., for disclosing interacting with a GUI. However, none of these citations to Horner et al., and nowhere else in Horner et al., disclose determining an amount of a portfolio that must be purchased on margin to match a user specified riskiness characteristic. These citations are provided below for ease of the reader.

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Performance Calculator

Start Calculating

Please select legal entity status, enter total assets (in USD) and choose a view for asset allocation (i.e., by entitlement or asset class). Based on the asset allocation view selected, a list of asset types will be displayed.

Legal Entity Status:	<input type="button" value="Mutual Fund"/>
* Total Assets (in USD):	<input type="text" value="0"/>
Select a view:	<input type="button" value="Summary by Asset Class"/>

*Please enter the total assets in even dollar amounts.

Fig. 4

SL Performance Calculator

Asset Allocation By Summary By Asset Class

You have selected: Endowment as your legal entity status
Your total assets are: \$2,000,000,000
Your selected view is: Summary By Asset Class

Please enter your asset allocation in USD or by percentage

Asset Type	Amount (\$)	Percentage(%)
U.S. Treasuries/UST Shrs	<input type="text" value="0"/>	<input type="text" value="0"/>
U.S. Agencies	<input type="text" value="0"/>	<input type="text" value="0"/>
U.S. Entities	<input type="text" value="0"/>	<input type="text" value="0"/>
U.S. Corporate Bonds	<input type="text" value="0"/>	<input type="text" value="0"/>
Non-U.S. Equities	<input type="text" value="0"/>	<input type="text" value="0"/>
Non-U.S. Bonds	<input type="text" value="0"/>	<input type="text" value="0"/>

Total: % and Your Dollar Amount Total is:

Fig. 5

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SL Performance Calculator

You have selected: Endowment as your legal entity status.
Your total assets are: \$2,000,000,000
Your selected view is: Summary By Asset Class

Please select your collateral portfolio option:

Collateral Portfolio Option: <input checked="" type="radio"/> Most Conservative <input type="radio"/> Safe Conservatively <input type="radio"/> Safe Aggressively <input type="radio"/> Most Aggressively	<input type="button" value="Calculate"/>
<div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> Most Conservative <ul style="list-style-type: none"> - Overnight U.S. Treasury bond - Mid-term U.S. Treasury bond - Corporate Bonds (AAA) - Long-term stocks and alternatives are not recommended. - Short-term corporate bonds recommended long-term exposure </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> Safe Conservatively <ul style="list-style-type: none"> - Medium-maturity maturity of 30 days - Mid-term corporate bonds (AA) - Long-term stocks and alternatives are not recommended. </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> Safe Aggressively <ul style="list-style-type: none"> - Long-term (Maturity duration of 120 days) - Intermediate maturing of 12-18 months - Long-term stocks and alternatives are recommended. - Long-term (Maturity duration of 180 days) - Long-term stocks and alternatives are recommended. </div> <div style="border: 1px solid black; padding: 5px; margin-bottom: 5px;"> Most Aggressively <ul style="list-style-type: none"> - Mid-term (Maturity duration of 120 days) - Medium-term maturing alternative metrics - Long-term stocks and alternatives are recommended. - Long-term (Maturity duration of 180 days) - Long-term stocks and alternatives are recommended. </div>	

Fig. 6

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SL Performance Calculator

Your legal entity status is: Endowment with the following details:
 U.S. Treasury/UST Supt:
 U.S. Agencies:
 U.S. Bonds:
 U.S. Corporate Bonds:
 Non-U.S. Equities:
 Non-U.S. Bonds:

BASED ON THE INFORMATION YOU PROVIDED, HERE ARE YOUR ESTIMATE/D RESULTS:

Estimated Summary:

Your total risk percentage is 22.32% and the total risk return is \$231,120,000. Your demand spread is 22.04 basis points and your gross spread is 42.74 basis points.

Estimated Taxable Results:

Asset Type	Leverable Assets (in USD)	On Loan %	On Loan Value (in USD)	Demand Spread (in bps)	Relevant Spread (in bps)	Gross Spread (in bps)	Gross Returns (in USD)
U.S. Treasury/UST Supt	405,000,000	53.44%	213,760,000	18	30.04	33.64	804,351
U.S. Agencies	600,000,000	34.04%	161,240,000	8	29.04	27.114	402,046
U.S. Bonds	103,000,000	7.04%	14,220,000	29	24.04	46.04	151,319
U.S. Corporate Bonds	293,000,000	2.00%	5,790,000	14	20.04	31.19	51,310
Non-U.S. Equities	400,000,000	16.80%	63,560,000	0	20.04	84.64	837,309
Non-U.S. Bonds	200,000,000	15.11%	60,220,000	10	22.04	76.64	594,870
Total	2,100,000,000	27.50%	551,100,000	22.04	30.04	43.27	8,094,560

Fig. 7

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Because the combination of Sanders and Horner et al. fails to teach or suggest all of the elements from claim 1, claim 1 is patentable over the combination of Sanders and Horner et al. As claims 3 and 6 depend from claim 1, claims 3 and 6 are also patentable over Sanders for at least the same reasons as claim 1. Therefore, the Applicant respectfully submits that the claims 3 and 6 are patentable over Sanders and Horner et al., either taken alone or in combination, and respectfully request reconsideration and withdrawal of the rejection of these claims.

CLAIMS 28-30 AND 33-34
ARE PATENTABLE OVER SANDERS AND HORNER ET AL.

The Examiner rejected claims 28-30 and 33-34 under 35 U.S.C. § 103(a) as being unpatentable over Sanders in view of Horner et al. The Examiner contends that Sanders fails to disclose a computer including a display and a user interface, but cites Horner et al. for this teaching. The Applicant agrees with the Examiner that Sanders fails to disclose this teaching, but disagrees that Sanders discloses the remaining elements of the claims at issue.

As discussed above, Sanders fails to teach "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claim 28. Moreover, as shown above Horner et al. also fails to teach or suggest this teaching missing from Sanders. Therefore, the combination of Sanders and Horner et al. fails to teach or suggest all of the elements from claim 28; hence claim 28 and those that depend therefrom are patentable over the combination of Sanders and Horner et al. As such, the Applicant respectfully submits that the claims

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28-30 and 33-34 are patentable over Sanders and Horner et al., either taken alone or in combination, and respectfully request reconsideration and withdrawal of the rejection of these claims.

CLAIMS 4 AND 31

ARE PATENTABLE OVER SANDERS, HORNER ET AL. AND NOLAN

The Examiner rejected claims 4 and 31 under 35 U.S.C. § 103(a) as being unpatentable over Sanders and Horner et al. in view of U.S. Patent No. 5,754,873 to Nolan [hereinafter "Nolan"]. The Examiner contends that the combination of Sanders and Horner et al. fails to disclose a slider bar, but cites Nolan for this teaching. The Applicant agrees with the Examiner that the combination of Sanders and Horner et al. fails to disclose this teaching, but disagrees that the combination of Sanders and Horner et al. discloses the remaining elements of the claims at issue.

As discussed above, the combination of Sanders and Horner et al. fails to teach or suggest "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claims 1 and 28.

Moreover, Nolan also fails to teach or suggest this teaching missing from the combination of Sanders and Horner et al. The Examiner cites column 9, lines 58-67 of Nolan to support his contention, which cite is reproduced below:

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The magnitude of the preferred size is entered as a number in entry field 40 using keyboard 34 in the example of FIG. 2. Alternatively, the user can input the number using a pointing device and menu, arrows to increment or decrement the magnitude, etc. In other embodiments, the scaling preference can be selected using a graphical control, such as a slider bar or dial, or a voice command. The inputted preferred size can be stored in RAM 16 (which can have a battery backup, for example, to provide non-volatile storage) or on a more permanent storage device, such as hard disk 28.

This citation to Nolan also fails to disclose that subject matter missing from Sanders and Horner et al. Therefore, the combination of Sanders, Horner et al. and Nolan fails to teach or suggest all of the elements from claims 1 and 28; hence claims 1 and 28 and those that depend therefrom are patentable over the Sanders, Horner et al. and Nolan. As such, the Applicant respectfully submits that the claims 4 and 31 are patentable over Sanders, Horner et al. and Nolan, either taken alone or in any combination, and respectfully request reconsideration and withdrawal of the rejection of these claims.

CLAIMS 5 AND 32**ARE PATENTABLE OVER SANDERS, HORNER ET AL. AND MARKS ET AL.**

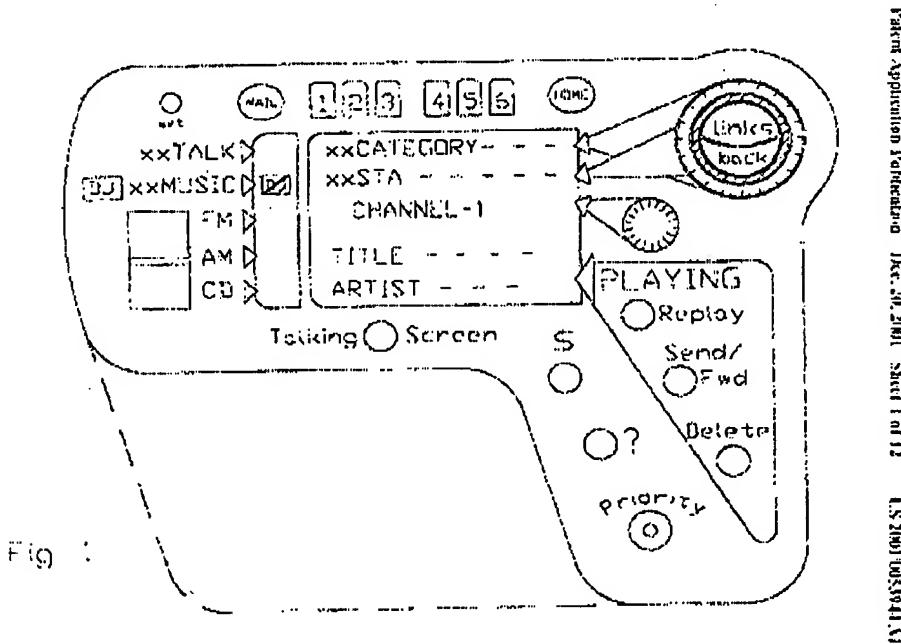
The Examiner rejected claims 5 and 32 under 35 U.S.C. § 103(a) as being unpatentable over Sanders and Horner et al. in view of U.S. Patent Application Publication No. 2001/0053944 to Marks et al. [hereinafter "Marks et al."]. The Examiner contends that the combination of Sanders and Horner et al. fails to disclose an arrow on a dial, but cites Marks et al. for this teaching. The Applicant agrees with the Examiner that the combination of Sanders and Horner et al. fails to disclose this teaching, but disagrees that the combination of Sanders and Horner et al. discloses the remaining elements of the claims at issue.

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As shown above, the combination of Sanders and Horner et al. fails to teach or suggest "*determining an amount of a desired portfolio of assets/rights/liabilities that must be purchased on margin so that a riskiness characteristic of a resulting portfolio matches a user specified riskiness characteristic*" as recited in independent claims 1 and 28.

Moreover, Marks et al. also fails to teach or suggest this teaching missing from the combination of Sanders and Horner et al. To support his contention, the Examiner cites FIG 1 of Marks et al., which is reproduced below:



This citation to Nolan also fails to disclose that subject matter missing from Sanders and Horner et al. Therefore, the combination of Sanders, Horner et al. and Marks et al. fails to teach or suggest all of the elements from claims 1 and 28; hence claims 1 and 28 and those that depend therefrom are patentable over Sanders, Horner et al. and Marks et al. As such, the Applicant respectfully submits that the claims 5 and 32 are patentable over Sanders, Horner et al. and Marks et al., either taken

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alone or in any combination, and respectfully request reconsideration and withdrawal of the rejection of these claims.

CONCLUSION

Reconsideration and withdrawal of all of the rejections are requested in view of the previous remarks. The Applicants respectfully submit this Application is in condition for allowance and request issuance of a Notice of Allowance.

If additional amounts are due for any reason it is respectfully requested that the PTO charge any deficiency or credit any overpayment to the deposit account of MICHAEL P FORTKORT PC, Deposit Account No. 50-3776.

In the event the prosecution of this application can be efficiently advanced by a phone discussion, it is requested that the undersigned attorney be called at (703) 435-9390.

Respectfully submitted,

By 
Michael P. Fortkort Reg. No. 35,141

Date: October 25, 2007

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